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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,555	11/14/2003	Guido Hergenhan	HOE-785	1729
20028	7590	11/03/2004	EXAMINER	
LAW OFFICE OF BARRY R LIPSITZ 755 MAIN STREET MONROE, CT 06468			THOMPSON, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,555

Applicant(s)

HERGENHAN, GUIDO

Examiner

Timothy J Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15 is/are rejected.
- 7) ☒ Claim(s) 11-14 and 16-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoe et al. (U.S. Patent No. 5,997,153) in view of Linville et al. (U.S. Patent No. 5,402,165).

Regarding claim 1, Naoe et al. discloses a positioning device(fig 3, 3b) for the exact positioning of a first optical component(fig 3, 4) relative to a second optical component(fig 3, 2), the positioning device comprising a first fixing element(fig 3, 3) and at least one second fixing element(fig 3, 1) guided relative to one another by a guide means(fig 3, 6) such that they are movable towards one another essentially only in a clamping direction the positioning device having at least one support element(fig 3, 3b). Naoe et al. does not disclose the position of said support element relative to the fixing elements being adjustable in at least one direction transversely to the clamping

direction and being adapted to be fixed between the fixing elements as a result of clamping and the optical components being held on different ones of the elements adjustable relative to one another. However, Linville et al. discloses a spacer that is replaceable(claim 5). It would have been obvious to use a spacer that is replaceable, as shown by Linville et al.,(which would obviously be adjustable in at least one direction transversely to the clamping direction and being adapted to be fixed between the fixing elements as a result of clamping and the optical components being held on different ones of the elements adjustable relative to one another, since it is replaceable, you could obviously slide the spacer back and forth between the fixing element until the fasteners are used with the device) in the optical device of Naoe et al., since as shown by Linville et al. replaceable spacers are commonly used so as to allowable varying the distance between the two optical devices.

Regarding claim 2, Naoe et al. discloses the fixing elements are guided relative to one another by several guide means(fig 3, 6).

Regarding claim 3, Naoe et al. discloses one of the guide means blocks at least any translational movement transversely to the clamping direction(fig 3, 6).

Regarding claim 4, Naoe et al. discloses one of the guide means blocks any rotational movement about an axis of rotation parallel to the clamping direction(fig 3, 6).

Regarding claim 5, Naoe et al. discloses a guide means is formed by an alignment pin and an alignment pin receiving means,

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wherein the alignment pin is arranged on one fixing element and the alignment pin receiving means on the other fixing element(fig 3, 6).

Regarding claim 6, Naoe et al. discloses in the case of several guide means one guide means is designed as an alignment pin and alignment pin receiving means and the other guide means has a degree of freedom in a radial direction in relation to the one guide means and forms an exact guide means only in a transverse direction in relation to the radial direction(fig 3, 6).

Regarding claim 7, Naoe et al. discloses the support element is adapted to be fixed in a force-locking manner between the fixing elements(fig 3).

Regarding claim 8, Naoe et al. discloses the fixing elements are adapted to be acted upon in a clamping direction by at least one clamping device(fig 3).

Regarding claim 9, Naoe et al. discloses the clamping device comprises a tightening screw(fig 3, 6).

Regarding claim 10, Naoe et al. discloses several clamping devices are provided(fig 3, 6).

Regarding claim 15, Naoe et al. discloses at least two support elements are arranged between the fixing elements(fig 3, 3b).

Allowable Subject Matter


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Claims 11-14 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The allowable features being; a polished surface; multiple symmetry of the clamping devices; each support element is provided with a contact element.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Thompson whose telephone number is (571) 272-2342. If the examiner can not be reached his supervisor, Georgia Epps, can be reached on (571) 272-2328.

T.J.T.


TIMOTHY THOMPSON
PRIMARY EXAMINER